

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BRENDAN PICHA and MAX J. HASTINGS  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

GEMINI TRUST COMPANY, LLC, TYLER  
WINKLEVOSS, and CAMERON  
WINKLEVOSS,

Defendants.

Case No. 1:22-cv-10922-NRB

NOTICE OF MOTION OF MICHAEL HERMAN FOR APPOINTMENT AS LEAD  
PLAINTIFF AND APPROVAL OF LEAD COUNSEL

**TO: ALL PARTIES AND THEIR COUNSEL OF RECORD**

**PLEASE TAKE NOTICE** that Michael Herman (“Herman”), by and through his counsel, will and does hereby move this Court, pursuant to Section 21D(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(3), and Section 27(a)(3) of the Securities Act of 1933, 15 U.S.C. § 77z-1(a)(3), as amended by the Private Securities Litigation Reform Act of 1995, for an Order: (1) appointing Herman as Lead Plaintiff on behalf of a class (the “Class”) consisting of all persons who invested in Gemini Trust Company, LLC’s program Gemini Earn or otherwise purchased Gemini Interest Accounts during the Class Period (*i.e.* February 2, 2021 through December 27, 2022) and were harmed thereby; and (2) approving proposed Lead Plaintiff’s selection of Pomerantz LLP as Lead Counsel for the Class.

Herman is aware of Rule 2.B of this Court’s Individual Practices, which provides, in relevant part, that “[a] pre-motion conference is required before making any motion, except for motions to be brought on by orders to show cause, motions by incarcerated pro se litigants, motions for reargument, motions to remand, applications to be relieved as counsel, motions for relief from judgment, motions to vacate or confirm an arbitral award, or any other motion required by the Federal Rules of Appellate Procedure or the Federal Rules of Civil Procedure to be made by a time certain[.]” Here, pursuant to the PSLRA, the deadline to file a motion for appointment as Lead Plaintiff in the above-captioned action is February 27, 2023, on which date any member of the putative Class may so move. *See* 15 U.S.C. §§ 78u-4(a)(3)(A)(i)(II), 77z-1(a)(3)(A)(i)(II). Herman will thus not know the identities of the other putative Class members, if any, who intend to file competing Lead Plaintiff motions until February 28, 2023—the day after the statutory deadline—making conferral with opposing parties prior to the filing of Herman’s motion papers impracticable. Under these circumstances, Herman respectfully

requests that compliance with Rules 2.B of this Court's Individual Practices be waived in this instance.

Dated: February 27, 2023

Respectfully submitted,

POMERANTZ LLP

/s/ Jeremy A. Lieberman

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